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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,102	09/12/2003	Milan Visnic	U 014811-7	6567

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/661,102	Applicant(s) VISNIC ET AL.	
	Examiner Yvonne M. Horton	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

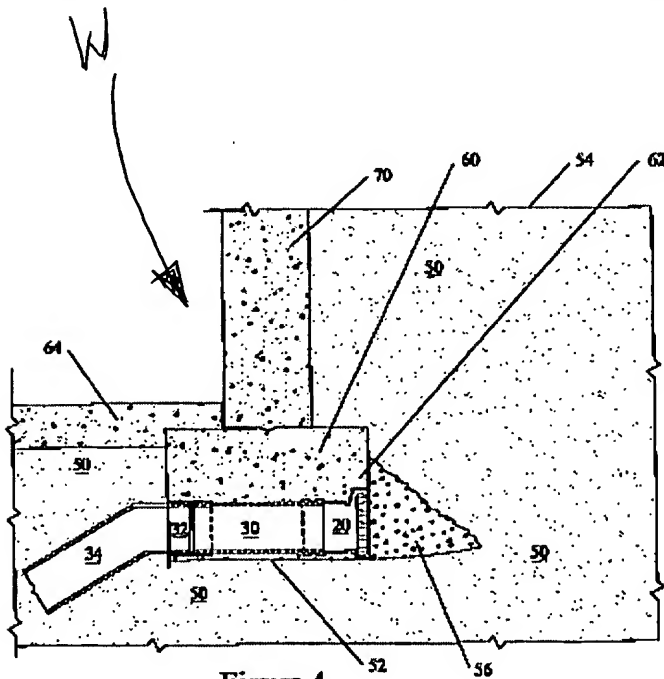
- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,2 and 12 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,669,404 to LeBLANC. LeBLANC discloses the use of a wall member (W) including a cast concrete base (60) having a wall portion (70) extending transverse/perpendicular to the base (60), and at least one duct (30) extending through the ends of the wall member (W), see below. Regarding claim 2, the duct (30) is



disposed within the base (60). In reference to claim 12, wall (70) is cast concrete and is mounted to the base (60), column 3, lines 66-67.

Claims 1,3 and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,550,819 to DeSANTO, Sr. DeSANTO, Sr. discloses the use of a wall member (10) including a cast concrete base (18) having a wall portion (16) extending transverse/perpendicularly thereto, and at least one duct (12) extending through the ends of the wall member (10). Regarding claim 3, the duct (12) is disposed within the wall (16). In reference to claim 10, wall (16) is cast concrete, column 3, lines 59-65.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,669,404 to LeBLANC or US Patent #6,550,819 to DeSANTO, Sr. Both LeBLANC and DeSANTO, Sr. fail to teach the forming the base and wall member as being cast integrally. Although both fail to explicitly disclose this, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form that which was previously constructed using various elements as an integral element because it involves only routine skill in the art.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 4 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,550,819 to DeSANTO, Sr. in view of US Patent #4,157,815 to SAVISKI et al. DeSANTO, Sr. discloses the basic claimed wall except for explicitly detailing the use of a plurality of ducts. SAVISKI et al. teaches that it is known in the art to provide a wall system with a plurality of ducts (32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the wall of DeSANTO, Sr.

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with the plurality of ducts, as taught by SAVISKI et al. in order to properly communicate fluids, electrical equipment, etc. to and from a structure.

Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,550,819 to DeSANTO, Sr. in view of US Patent #4,157,815 to SAVISKI et al. as applied to claim 4 above, and further in view of US Patent #4,879,851 to BOCCIA. DeSANTO, Sr. as modified by SAVISKI et al., does not teach te use of the duct explicitly being for water. Although SAVISKI et al. does teach using his ducts for cooling, he does not explicitly detail the use of water. BOCCIA, however, teaches that it is known in the art to use ducts (24) for carrying water. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made for the ducts of DeSANTO, Sr., as modified by SAVISKI et al., to carry water, as taught by BOCCIA, in order to properly drain excess water from the structure.

Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,550,819 to DeSANTO, Sr. in view of US Patent #4,157,815 to SAVISKI et al. as applied to claim 4 above, and further in view of US Patent #5,417,017 to TOUTOUNTZIS. DeSANTO, Sr. as modified by SAVISKI et al., does not teach te use of the duct explicitly being for electrical devices. Although SAVISKI et al. does teach using his ducts for cooling, he does not explicitly detail the use of water. TOUTOUNTZIS , however, teaches that it is known in the art to use ducts (31) for carrying electrical devices (41). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made for the ducts of

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DeSANTO, Sr., as modified by SAVISKI et al., to carry electrical devices, as taught by TOUTOUNTZIS in order to properly provide the structure with the ability to have lights and other electrically operable machinery.

Claims 7-9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,669,404 to LeBLANC in view of US Patent #4,167,986 to CONWAY.

LeBLANC discloses the basic claimed wall except for explicitly detailing the use of An expanded polystyrene material in the ducts. CONWAY teaches that it is known in the art to provide a duct (51) with a polystyrene material (51) therein. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the wall of LeBLANC with the polystyrene material in the ducts, as taught by CONWAY, in order to better insulate the assembly.

Allowable Subject Matter

Claims 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the duct being in the wall portion, the duct extending longitudinally - more specifically between longitudinal ends of the wall member, or the duct extending between openings in longitudinal ends of the wall portion) are not recited in the rejected claim(s). Claim 1 recites a wall member comprising a base, wall portion and a duct, in

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general. Claim 1 further details that the duct extends through the wall member, and not the wall portion. Also, no where in claim 1 is it indicated that the duct extends longitudinally. The claim merely cites that the duct extends between the end faces. The claim is not specific as to the long face or the short face. By the wall taking on a fairly rectangular shape, rectangle have long and short ends; however, the claim does not require or specify either. The claim definitely does not specify between longitudinal ends of the wall member or openings in the longitudinal ends. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne M. Horton
Art Unit 3635
9/20/05